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UNLIMITED JURISDICTION

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

WILLIAM TAYLOR,

Plaintiff,

vs.

CITY OF BURBANK, ET AL.,

Defendants.

CASE NO. BC 422 252

[Assigned to the Hon. John L. Segal,
Judge, Dept. "50"]

**DECLARATION OF CHRISTOPHER
BRIZZOLARA IN SUPPORT OF
MOTION FOR ATTORNEYS FEES**

Date: July 9, 2012

Time: 8:30 a.m.

Dept.: "50"

[Filed concurrently with Points & Authorities
and Declarations of Gregory W. Smith,
Douglas Benedon, and Selma Francia]

Action Filed: September 22, 2009

Trial: March 5, 2012

I, Christopher Brizzolara, do declare as follows:

1. I am one of the counsel of record and one of the trial counsel for the plaintiff in the above-captioned matter. I base this declaration on my personal knowledge. I am over 18 years of age, and if called to testify regarding the contents of this declaration, I could and would competently testify thereto.

**DECLARATION OF CHRISTOPHER BRIZZOLARA IN SUPPORT OF
MOTION FOR ATTORNEYS FEES**

2. I attended the University of Southern California in Los Angeles, California from 1976 - 1980, and obtained a BA degree in English in 1980. I attended Tulane University School of Law in New Orleans, Louisiana from 1980 - 1983, and obtained a JD degree in 1983.

3. I am currently a solo practitioner who specializes in litigation and trial matters, and in particular, the litigation of trials and other matters on behalf of law enforcement, firefighters, and other public safety and other public entity employees. I have been an attorney since 1983. I am licensed and was admitted to practice law in the State of Louisiana in 1983. I am licensed and was admitted to practice law in the State of Oklahoma in 1984. I am licensed and was admitted to practice law in the State of California in 1987. I am licensed and was admitted to practice law in the State of New Mexico in 1994. I am admitted to practice in the United States Supreme Court, United States Courts of Appeal for the Fifth and Ninth Circuits, and the United States District Courts for the Central District of California, Eastern District of Louisiana, and Western District of Oklahoma. I also previously passed the bar examination for the Commonwealth of the Northern Marianas Islands in 2004, and expect that I will be admitted to practice in that jurisdiction as well should I return to the Commonwealth of the Northern Marianas Islands and take the attorney oath for that jurisdiction.

4. I have worked in association with respected law firms in the past, including without limitation, Capitelli, Bencomo & Wicker, New Orleans, Louisiana (1983-1987), Tuverson & Hillyard (1987-1992), Williams & Associates and Williams & Hilton (1992 - 1997), and Brandon & Hilton (1997 - 2002) before commencing operating full time as a solo practitioner.

5. I have qualified to testify and have testified at both binding arbitrations and trial as an expert witness on the issues of the standard of care of attorneys in the Southern California area in handling employment and other litigation, legal ethics, billing, and attorneys fee issues. In 2010 I was paid \$600.00 per hour as an expert witness by the well respected firm of Baker, Keener, & Nahra. As set forth below, last month both Mr. Smith and myself were awarded \$600.00 by Los Angeles County Superior Court Judge Teresa Sanchez-Gordon as our reasonable hourly rate in regard to the last FEHA case that we tried together to a jury in the fall of 2011.

1 6. From 1988 - 2002, one of my primary areas of practice was the defense of professional
2 liability and other claims against attorneys, many of which actions also involved a cross-complaint
3 or other action for attorneys fees. In that capacity, I have represented well in excess of 100 law
4 firms and attorneys in professional liability matters in the Southern California area. I therefore
5 have had the opportunity to review and evaluate the attorney work product, legal services, and
6 billing rates of numerous law firms and attorneys, including the attorney work product, legal
7 services, and billing rates of numerous law firms and attorneys handling employment litigation and
8 related issues in the Southern California area.

9 7. I have been involved in numerous other large, complicated, and interesting cases, and
10 have other extensive background, training, and experience, including but not limited to the
11 following:

12 8. From 1985 - 1987 I served as the Assistant Special Counsel for the Louisiana Judiciary
13 Commission, and was responsible for investigating and prosecuting numerous Louisiana state
14 court judges for violations of the *Canons of Judicial Ethics*. In 1993, I was certified as a trial
15 prosecutor for the L.A. District Attorney's and L.A. City Attorney's Offices through the *L.A. County*
16 *Trial Attorney Project* (TAP), and I thereafter handled multiple jury trials and other proceedings as
17 a trial prosecutor in the Hollywood and Central Trials Divisions of the Los Angeles City Attorney's
18 Office. From 1993 - 1997, I was the primary attorney in charge of defending numerous cases
19 against the County of Los Angeles Fire Department and its paramedics.

20 9. I have also been involved in handling numerous high profile criminal jury trials in state and
21 federal courts, including *United States v. Provenzano, et al.* (RICO organized crime case), *United*
22 *States v. Green, et al.*, (drug smuggling case involving the seizure of in excess of 60,000 lbs. of
23 marijuana), and the Hot Rod Williams alleged gambling and point shaving trials. I was also
24 involved in handling what I believe is one of the first actions against the Roman Catholic Church
25 involving the molestation by a priest of minor altar boys, which resulted in substantial confidential
26 resolutions, and is one of the few (if not the only) civil actions ever to be sealed by order of the
27 Louisiana Supreme Court. I was one of the primary attorneys handling the Elk Hills litigation,
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1 which consisted of a number of large and complex toxic tort cases involving in excess of 100
2 plaintiffs, which actions, after long and involved litigation, reached a substantial and confidential
3 resolution.

4 10. The bulk of the recent jury trials that I have tried as plaintiff's counsel as either lead counsel
5 or trial co-counsel have resulted in jury verdicts in excess of one million dollars. (*Garrigues v.*
6 *Hurvitz* - 3.1 million dollars; *Rizzi, et al. v. Riverside Medical Clinic, et al.* - 1.4 million dollars;
7 *Frieders, et al. v. City of Glendale, et al.* - 3.3 million dollars;; *Van Holt v. City of South Gate* - 4.2
8 million dollars; *Kruisheer v. Toys "R" Us* - 1.1 million dollars; *Patterson, et al. v. City of Long*
9 *Beach* - 4.1 million dollars; *Burton/Tohill v. City of Los Angeles* - 1.6 million dollars; *Chan/Benioff*
10 *v. City of Los Angeles* - 2.1 million dollars, *Bakotich, et al. v. City of Los Angeles* - 2.5 million
11 dollars, and the instant case, *Taylor v. City of Burbank* - approximately 1.3 million dollars. In
12 2011 I was also the lead trial attorney for plaintiff John Miller in the action entitled *Miller, et al. v.*
13 *City of Los Angeles*, which resulted in a jury verdict on favor of my client in excess of \$993,000.
14 I was also counsel of record for plaintiffs and participated heavily in the pre-trial and post trial
15 proceedings of the actions entitled *Hernandez, et al. v. City of South Gate*, which resulted in a jury
16 verdicts in favor of plaintiffs of approximately 10.4 million dollars, and *Lima v. City of Los Angeles,*
17 *et al.*, which resulted in a jury verdict in favor of plaintiff of approximately 3.7 million dollars. The
18 last four jury trials I have tried as defense counsel have all resulted in either defense jury verdicts
19 and/or subsequent defense judgments in favor of my clients.

20 11. I have been selected as a Southern California Super Lawyer for multiple years, including
21 the years 2007 - 2010 by Los Angeles Magazine and its associates. In 2009, I was inducted into
22 the Million Dollar and Multi-Million Dollar Advocates Forums.

23 12. I have handled and won as trial counsel in excess of 40 civil jury and criminal felony jury
24 trials, as a civil plaintiff's attorney, civil defense attorney, criminal prosecutor, and criminal defense
25 attorney in the States of California, Alabama, and Louisiana, in both state and federal courts. I
26 have won substantially more judge/bench trial, petitions, and other equitable proceedings. I have
27 handled in excess of 100 binding arbitrations as lead counsel for my client or clients, and have
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1 conducted in excess of 1000 depositions.

2 13. I have handled numerous appeals in the States of California and Louisiana, and authored
3 the briefs and/or argued the following published appellate cases: *Carlson v. Blatt* (2001) 87 Cal.
4 App. 4th 646; *Garcia v. Superior Court* (1996) 42 Cal.App.4th 177; *Life v. Zuzga* (1990) 218
5 Cal.App.3d 1287; *In Re Soileau* (1987) 502 So.2d 1083; *State v. Bentley* (1986) 499 So.2d 581;
6 and *State v. Jackson* (1986) 457 So.2d 660. Most recently I authored briefs, argued before the
7 Court of Appeal, assisted in the argument before the California Supreme Court, and otherwise
8 participated, in the appeal of the action entitled *McDonald, et al. v. Antelope Valley Community*
9 *College District* which resulted in the California Supreme Court decision entitled *McDonald, et al.*
10 *v. AVCCD* (2008) 45 Cal.4th 88, the seminal California Supreme Court case regarding the
11 important issue of the application of the doctrine of equitable tolling to a FEHA complaint. I am
12 the co-author of an article regarding the remedies available to aggrieved sworn law enforcement
13 employees under the Peace Officer's Bill of Rights published by the Los Angeles County
14 Professional Sheriff's Association. I am also the primary author of the article entitled "Equitable
15 Tolling of the FEHA Statute of Limitations" which was published in the *State Bar of California*
16 *California Labor & Employment Law Review*, in March, 2009. Mr. Smith and myself are also
17 credited in the 2012 Edition of the *California Civil Jury Instruction Companion Handbook* in regard
18 to the creation of the appropriate jury instructions to be utilized in a *Labor Code* Section 1102.5
19 whistleblower action.

20 14. I, along with my co-counsel in the actions, have been awarded substantial amounts of
21 attorneys fees by courts in regard to the handling of civil actions, including the following: *Frieders,*
22 *et al. v. City of Glendale, et al.* - 1.1 million dollars in attorneys fees in 2004; *Wallace v. City of Los*
23 *Angeles* - 1.1 million dollars in attorneys fees and costs in 2005; *Van Holt v. South Gate* - 1 million
24 dollars in attorneys fees in 2006; *Hernandez, et al. v. City of South Gate* - 3.2 million dollars in
25 attorneys fees in 2007, and multiple other fees awards, including the attorneys fees awards set
26 forth in exhibits "B" - "D" hereto. To my knowledge, the award of attorneys fees and costs in the
27 *Wallace v. City of Los Angeles* case is among the largest civil discovery sanctions awards ever
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1 made by a federal court. I was the attorney primarily responsible for writing the motion that
2 resulted in this attorneys fees and costs award.

3 15. I have extensive experience in prosecuting and defending medical, legal, other professional
4 liability, and other complicated or sophisticated cases, and am routinely retained as an expert
5 consultant or as the handling attorney in regard to actions involving legal ethics and/or the legal
6 standard of care. Because of my trial and other experience I am also routinely associated to
7 serve as and/or assist as trial counsel with numerous firms and attorneys in Southern California.
8 I have been retained to handle numerous cases on behalf of insurance companies and other
9 entities, including but not limited to Hartford Insurance Company, Lloyd's of London, CNA
10 Insurance Company, Lawyers' Mutual Insurance Company, SCPIE, Doctor's Company, the City
11 of New Orleans, the County of Los Angeles, SCRTD, Allstate Insurance Company, State Farm
12 Insurance Company, DPIC, and Gulf Insurance Company.

13 16. While I have handled numerous professional liability matters over my career, including
14 medical, legal, and other professional liability matters, I have handled numerous other matters
15 involving employment law. From 1983 to present, in both State and Federal Courts, I have
16 handled numerous legal matters involving employment issues, both as a plaintiff and defense
17 attorney, including cases involving claims and/or causes of action for wrongful termination,
18 harassment, discrimination, retaliation, breach of contract, *Labor Code* violations, wage disputes,
19 and other matters. Further, from 1988 to 2002, I handled multiple legal malpractice actions in
20 which the underlying action from which the alleged malpractice arose involved employment law
21 related causes of action.

22 17. During the year 2003, I was trial co-counsel on three separate FEHA based actions, all of
23 which resulted in jury verdicts in favor of my clients. In 2003, in regard to these FEHA based
24 actions, I spent in excess of seven months in pre-trial, trial, and post-trial proceedings. From
25 2004 to present I have successfully handled numerous other employment related civil actions,
26 including the trials of the *Van Holt v. City of South Gate* case in March of 2006, *Kruisheer v. Toys*
27 *"R" Us*, in 2007, *Patterson, et al. v. City of Long Beach* and *Burton/Tohill v. City of Los Angeles*
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1 in 2008, and *Miller v. City of Los Angeles*, *Chan/Benioff v. City of Los Angeles*, and *Bakotich, et*
2 *al. v. City of Los Angeles* in 2011. I believe that my knowledge of the current state of employment
3 law and related trial issues is equal to any attorney currently practicing in Southern California who
4 claims to specialize in such matters.

5 18. From 2003 to present, I have represented numerous law enforcement officers in
6 employment related matters, including matters involving claims of discrimination, harassment, and
7 retaliation, including but not limited to the Chief of Police of Austin, Texas, the former Assistant
8 Chief of Police of the City of South Gate, the former Deputy Chief of Police of City of Burbank in
9 the instant case, Battalion Chiefs of both the Los Angeles County and Los Angeles City Fire
10 Department, Task Force Commanders of the City of Los Angeles Fire Department, and numerous
11 law enforcement officers employed and/or formerly employed by the LAPD, the Los Angeles
12 County Sheriff's Department, the Long Beach Police Department, the Glendale Police
13 Department, the Inglewood Police Department, the Maywood Police Department, the South Gate
14 Police Department, the Montebello Police Department, and numerous employees of other law
15 enforcement, firefighting, and other public agencies. I do not advertise my practice or my legal
16 services in the Yellow Pages, professional journals, or any other forum, and all of my clients and
17 cases are referred to me by other attorneys or clients based upon my background, training, skill,
18 experience, and reputation.

19 19. I participated in the handling of this matter on behalf of plaintiff, including, *inter alia*,
20 preparing the matter for and participating in the trial, reviewing and summarizing file materials,
21 communicating with my co-counsel, my client, and the trial and potential trial witnesses,
22 performing legal research, drafting pleadings and other legal documents, and other investigative
23 and legal services. The bulk of the activities I performed were contemporaneously recorded (i.e.,
24 on the day that the activity was done, or within a short time thereafter) and placed in computers.
25 My time was recorded for the actual time spent on each activity. A true and accurate description
26 of many of my services and the amount of time expended in performing such services on this
27 case is attached hereto as Ex. "A". I have spent at least 590.1 hours working on this action to
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1 date, and request that the Court award "lodestar" fees for my legal services to plaintiff in this
2 matter in the amount of at least \$354,060 calculated at \$600 per hour plus a multiplier of at least
3 2.0.

4 20. Being engaged in this matter took up substantial portions of my time, affecting my ability
5 to work on other legal matters, to engage in other business opportunities, to engage in other
6 activities of life, and affecting my income. As a result of being involved in this case, I was
7 required to decline opportunities to be involved as legal counsel on other meritorious and
8 potentially lucrative legal actions. As reflected in my time sheets, I was literally required to spend
9 entire days and at times the better part of weeks handling this matter. As a result of my
10 committing to represent the plaintiff in this matter, I was required to decline being employed in
11 numerous other meritorious and potentially lucrative cases and other legal matters, resulting in
12 my being deprived of the opportunity to earn substantial amounts of additional income.

13 21. The defendant in this action never offered any reasonable amount to settle this case. As
14 such, we had no alternative but to fully litigate this matter, and engaging in a full jury trial and
15 related activities. The defendant aggressively defended this action, employing at least two large
16 and experienced firms in the area of employment litigation as well personnel from as its own City
17 Attorney's office. The defendant also had other attorneys and firms involved with the defense of
18 this action and/or the issues underlying this action. Myself and my co-counsel were literally
19 confronted with a veritable platoon of seasoned defense and other counsel on this case, who filed
20 numerous voluminous motions and writ proceedings, vigorously defending this case throughout
21 the entire pendency of this matter.

22 22. Multiple experienced and reputable attorneys practicing in the Los Angeles area have
23 previously opined that the reasonable rate for my legal services is in the range of at least \$500
24 to \$600 per hour. Further, as set forth below and in the exhibits attached hereto as Exs. "B" - "D",
25 both state and federal judges determined in 2007, some five years ago, that the reasonable rate
26 for my legal services at that time was \$500.00 per hour. Since that time I have garnered
27 additional substantial background, training, and experience in litigating employment law jury trials
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1 and other matters, including participating in the handling and trials of the cases after 2007 set
2 forth above resulting in multiple jury verdicts in excess of \$1,000,000, as well as numerous other
3 cases that reached substantial settlements prior to trial. In regard to the latest attorney fee motion
4 that was brought by Mr. Smith, Mr. Kevin Salute, and myself in regard to the *Bakotich, et al. v. City*
5 *of Los Angeles* case that we tried to verdict in the fall of 2011, the Honorable Teresa Sanchez-
6 Gordon, the Los Angeles County Superior Court trial judge who presided over the case, last month
7 awarded both Mr. Smith and myself the reasonable hourly rate of \$600.00 per hour for our
8 services on that case.

9 23. Submitted herewith as Ex. "B" is a true and correct copy of the ruling of the Honorable
10 Judge Tricia Ann Bigelow of the Los Angeles County Superior Court dated November 28, 2007
11 awarding attorneys fees to Gregory W. Smith and myself in connection with the case of *Lima v.*
12 *City of Los Angeles*, LASC Case No. BC353261, an action based on FEHA, and finding that both
13 Mr. Smith and myself were entitled to a reasonable hourly rate at that time of \$500.00 per hour.

14 24. Submitted herewith as Ex. "C" is a true and correct copy of the ruling of the Honorable
15 United States District Judge Gary Allen Feess dated December 5, 2007 awarding attorneys fees
16 to Gregory W. Smith and myself in connection with the case of *Kruisheer v. Toys "R" Us*, USDC
17 Case No. CV-05-3425 GAF (VBKx), an action based on FEHA, and finding that both Mr. Smith
18 and myself were entitled to a reasonable hourly rate at that time of \$500.00 per hour.

19 25. Submitted herewith as Ex. "D" is a true and correct copy of the ruling of the Honorable
20 Judge Aurelio Munoz of the Los Angeles County Superior Court dated December 7, 2007
21 awarding attorneys fees to myself and my co-counsel in connection with the case of *Hernandez,*
22 *et al. v. City of South Gate*, LASC Case No. BC342104, an action based on FEHA, in which the
23 Court awarded myself and my senior co-counsel a reasonable hourly rate at that time of \$500.00
24 per hour.

25 26. It is my opinion based upon my background, training, skill, and experience that the current
26 reasonable hourly rates for my services is at least \$600.00 per hour.

27 27. I have known Gregory W. Smith since the late 1990s, and am familiar with his background,
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1 training, experience, and legal skills. I have participated with Mr. Smith in conducting numerous
2 legal matters, including multiple jury trials. Mr. Smith is an experienced civil trial attorney with
3 substantial knowledge in the field of employment law and law enforcement matters. Based upon
4 my background, training, and experience, the market rate for the legal services provided by Mr.
5 Smith in regard to the instant action at this time is at least \$600.00 per hour.

6 28. It is also my opinion that the market rate for the legal services of the attorneys for plaintiffs
7 litigating FEHA and other employment related claims should be subjected to a positive multiplier
8 given the realities and practicalities of litigating such claims against a public entity. It is my
9 personal experience that employment cases against public entities are time, money, and labor
10 intensive, and are difficult cases to win. Public entities often utilize virtually unlimited resources
11 in defending these types of cases. Typically such public agencies will file every possible motion,
12 and use every possible legal device available to attempt to defeat the plaintiff's claims. Even after
13 adverse jury verdicts and judgments, the public entities will often continue to vigorously litigate the
14 claims through post trial motions and appeals.

15 29. Further, since there is often no direct evidence of harassing, discriminatory, and/or
16 retaliatory intent by the defendants in these types of cases, the plaintiffs must often rely on
17 circumstantial evidence to establish that such intent in fact existed, and was a motivating reason
18 for the conduct at issue. Additionally, these cases advance the important public policies of

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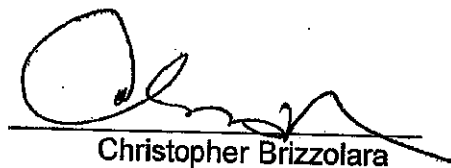
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1 eliminating harassment, discrimination, and retaliation from the work place, for the good of society
2 as a whole.

3 31. Further, since the plaintiffs in these types of actions generally cannot afford to pay the
4 attorneys fees and costs associated with these types of actions, the attorneys for plaintiffs often
5 are required to advance significant amounts of time, effort, and labor in order to prosecute these
6 cases. Because oftentimes the attorneys for plaintiffs will only be paid their fees if they win, an
7 additional element of contingent risk is involved, which along with the factors set forth above,
8 supports that a multiplier be applied to the fees of attorneys for the successful plaintiffs in these
9 types of actions.
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11 I declare the foregoing to be true and correct under penalty of perjury under the laws of the
12 State of California.

13 Executed this 10th day of June, 2012,
14 in Santa Monica, California.
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17 Christopher Brizzolara
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DECLARATION OF CHRISTOPHER BRIZZOLARA IN SUPPORT OF
MOTION FOR ATTORNEYS FEES

EXHIBIT "A"

Taylor v. Burbank, et al., LASC Case No. BC422252

1.	10/11/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
2.	10/12/09 - Receipt, review, analysis, and calendar defendant's notice of deposition and request for production of documents thereat	.5
3.	10/12/09 - Receipt, review, and calendar defendant's employment form rogs	.1
4.	10/12/09 - Receipt, review, and analysis of defendant's notice of deposition and request for production of documents thereat	.5
5.	10/14/09 - Receipt, review, and analysis of plaintiff's governmental tort claim	.5
6.	10/14/09 - Receipt, review, and analysis of plaintiff's DFEH claim	.2
7.	10/14/09 - Receipt, review, and analysis of correspondence from Stehr	.5
8.	10/14/09 - Investigation regarding Rosoff	1.2
9.	10/14/09 - Receipt & review of correspondence to client	.1
10.	10/18/09 - Receipt & review of correspondence to client	.2
11.	11/3/09 - Receipt & review of change of address notice	.1
12.	11/3/09 - Receipt & review of notice of related cases and voluminous documents attached thereto	2.6
13.	11/3/09 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
14.	11/7/09 - Receipt, review, analyze, and calendar RFP from defendant	.3
15.	11/7/09 - Receipt, review, and analyze defendant's answer	.1
16.	11/9/09 - Receipt & review of correspondence to defense counsel	.1
17.	11/9/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
18.	11/10/09 - Receipt, review, and calendar notice of CMC	.2
19.	11/11/09 - Receipt, review, analyze, and calendar RFP to defendant	.3
20.	11/11/09 - Receipt, review, analyze, and calendar RFAS to defendant	.3

21.	11/11/09 - Receipt, review, and calendar employment form rogs to defendant	.2
22.	11/11/09 - Receipt, review, analyze, and calendar special rogs to defendant	.3
23.	11/11/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
24.	11/12/09 - Investigation re discrimination by defendant	1.5
25.	11/16/09 - Receipt, review, and analysis of e-mail from co-counsel (x5)	.3
26.	11/17/09 - Receipt & review of notice of recusal/reassignment	.1
27.	11/17/09 - Receipt & review of correspondence to client	.1
28.	11/17/09 - Receipt, review, and analysis of defendant's notice of deposition and request for production of documents thereat	.5
29.	11/17/09 - Receipt, review, and analysis of correspondence to defense counsel (x2)	.1
30.	11/17/09 - Receipt & review of correspondence to client	.1
31.	11/17/09 - Receipt, review, and calendar notice of deposition	.2
32.	11/17/09 - Receipt, review, and summarize plaintiff's response to RFP, Part One	2.5
33.	11/17/09 - Receipt, review, and summarize plaintiff's response to RFP, Part Two	2.4
34.	11/18/09 - Receipt, review, and summarize plaintiff's response to RFP, Part Three	3.2
35.	11/18/09 - Receipt, review, and summarize plaintiff's response to RFP, Part Four	2.8
36.	11/18/09 - Receipt, review, and analyze plaintiff's response to employment form rogs	1.1
37.	11/18/09 - Receipt, review, and analyze plaintiff's objections to notice to produce documents at deposition	.8
38.	11/19/09 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
39.	11/19/09 - Receipt, review, and calendar notice of CMC	.2

40.	11/20/09 - Receipt, review, and analysis of defendant's response to notice of related cases (x2)	.6
41.	11/20/09 - Receipt & review of correspondence to client	.1
42.	11/20/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
43.	11/25/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
44.	11/26/09 - Receipt & review of correspondence to defense counsel	.1
45.	12/14/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
46.	12/15/09 - Receipt, review, and calendar notice of CMC	.1
47.	12/15/09 - Receipt & review of correspondence to defense counsel	.1
48.	12/15/09 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
49.	12/18/09 - Receipt & review of correspondence to defense counsel	.1
50.	12/19/09 - Receipt, review, and analysis of e-mail from co-counsel	.1
51.	1/18/10 - Receipt & review of correspondence to defense counsel (x2)	.1
52.	1/18/10 - Receipt, review, and calendar notice of continuance of CMC	.2
53.	1/18/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
54.	1/20/10 - Receipt, review, analysis, and summary of defendant's response to employment form rogs	.9
55.	1/20/10 - Receipt, review, analysis, and summary of defendant's response to special rogs	.4
56.	1/20/10 - Receipt, review, analysis, and summary of defendant's response to rfas	.8
57.	1/20/10 - Receipt, review, analysis, and summary of defendant's response to rfp	.3
58.	2/14/10 - Receipt, review, and analysis of correspondence from LaChasse	.1
59.	2/14/10 - Receipt, review, and summarize deposition of plaintiff, Vol. 1	1.5

60.	2/16/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
61.	2/16/10 - Receipt, review, and analyze correspondence to defense counsel	.2
62.	2/23/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
63.	2/24/10 - Receipt, review, and calendar notice of deposition (x3)	.3
64.	2/24/10 - Receipt, review, and analyze CMC statement	.2
65.	2/24/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
66.	3/1/10 - Receipt, review, and summarize deposition of plaintiff, Vol. 2	3.6
67.	3/1/10 - Receipt, review, and analyze defendant's response to RFP	.5
68.	3/1/10 - Receipt, review, and summarize defendant's response to employment form rogs	2.2
69.	3/1/10 - Receipt, review, and analyze defendant's response to RFAS	.8
70.	3/1/10 - Receipt, review, and analyze defendant's response to special rogs	.4
71.	3/1/10 - Receipt, review, analyze correspondence from defense counsel	.2
72.	3/1/10 - Receipt, review, and analyze Michael P case	.7
73.	3/1/10 - Receipt, review, and analyze Bains case	.8
74.	3/1/10 - Telephone conference with co-counsel	.5
75.	3/1/10 - Receipt, review, and analyze County of Orange case	.9
76.	3/2/10 - Preparation of Pitchess motion	5.5
77.	3/2/10 - Preparation of Separate Statement re Motion to Compel RFP Responses	4.6
78.	3/3/10 - Preparation of Separate Statement re Motion to Compel Special Rog Responses	3.9
79.	3/3/10 - Preparation of Separate Statement re Motion to Compel Form Rog Responses	6.6
80.	3/3/10 - Receipt, review, and analysis of e-mail from co-counsel (x5)	.3

81.	3/4/10 - Review and revise Pitchess motion	5.4
82.	3/4/10 - Review and revise Separate Statement re Motion to Compel RFP Responses	1.5
83.	3/4/10 - Review and revise Separate Statement re Motion to Compel Special Rog Responses	1.3
84.	3/4/10 - Review and revise Separate Statement re Motion to Compel Form Rog Responses	2.2
85.	3/4/10 - E-mail to co-counsel (x6)	.3
86.	3/5/10 - Receipt, review, and calendar notice of deposition (3)	.2
87.	3/5/10 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
88.	3/18/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
89.	3/22/10 - Receipt, review, and calendar notice of deposition	.1
90.	3/22/10 - Receipt & review of correspondence to client	.1
91.	3/22/10 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
92.	3/23/10 - Receipt & review of correspondence to client	.1
93.	3/24/10 - Receipt, review, and analyze correspondence from client	.5
94.	3/24/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
95.	3/25/10 - Receipt, review, and analyze correspondence from client	1.1
96.	3/26/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
97.	3/29/10 - Receipt, review, and analyze correspondence from client	1.2
98.	3/31/10 - Receipt, review, and analyze correspondence to LaChasse	.3
99.	4/5/10 - Investigation regarding Rosoff	.9
100.	4/6/10 - Receipt, review, and analyze correspondence to LaChasse	.3
101.	4/6/10 - Receipt, review, and analyze correspondence from client	.6

102.	4/9/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
103.	4/10/10 - Receipt, review, and analyze correspondence from co-counsel	.2
104.	4/10/10 - Receipt, review, and analyze correspondence from Kriesler	.4
105.	4/12/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
106.	4/14/10 - Receipt, review, and calendar notice of deposition	.1
107.	4/14/10 - Receipt, review, and analysis of notice of proposed termination	.2
108.	4/14/10 - Preparation of Reply re: Pitchess motion	3.4
109.	4/14/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
110.	4/14/10 - E-mail to co-counsel (x2)	.1
111.	4/16/10 - Receipt, review, and analyze correspondence to LaChasse	1.0
112.	4/20/10 - Receipt, review, and calendar notice of continuance of Pitchess motion	.2
113.	4/21/10 - Investigation re discrimination by defendant	.4
114.	4/21/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
115.	4/22/10 - Receipt, review, and analysis of correspondence to defense counsel	.2
116.	4/23/10 - Receipt, review, and analysis of correspondence to defense counsel	.2
117.	4/26/10 - Correspondence to defense counsel	.6
118.	4/26/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
119.	4/27/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
120.	4/27/10 - E-mail to co-counsel	.1
121.	4/27/10 - Receipt, review, and analyze correspondence to LaChasse	.2
122.	5/3/10 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.1
123.	5/3/10 - Receipt, review, and analyze motion to compel and related documents	1.2

124.	5/4/10 - Receipt, review, and analysis of correspondence to defense counsel	.1
125.	5/4/10 - Receipt, review, and calendar notice of continuance of Pitchess motion	.2
126.	5/4/10 - Receipt, review, and calendar order re Pitchess motion	.1
127.	5/4/10 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
128.	5/21/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
129.	6/1/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
130.	6/2/10 - Preparation of declaration of counsel	.6
131.	6/2/10 - Correspondence to counsel	.3
132.	6/9/10 - Receipt, review, and analysis of Do It Urself case	.7
133.	6/9/10 - Receipt, review, and analysis of Maldonado case	.7
134.	6/9/10 - Review and analysis of CCP 2025.450	.2
135.	6/9/10 - Review and analysis of CCP 2025.480	.2
136.	6/9/10 - Review and analysis of CCP 2016.040	.2
137.	6/9/10 - Review and analysis of CCP 2023.010	.2
138.	6/9/10 - Receipt, review, and analysis of Sabado case	.7
139.	6/9/10 - Receipt, review, and analysis of Townsend case	.5
140.	6/9/10 - Preparation of opposition to motion to compel	5.1
141.	6/9/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
142.	6/9/10 - E-mail to co-counsel (x2)	.1
143.	6/16/10 - Receipt, review, and calendar notice of deposition (x8)	.2
144.	6/16/10 - Receipt & review of correspondence to client	.1
145.	6/16/10 - Receipt, review, and analysis of e-mail from co-counsel	.1

146.	6/21/10 - Receipt, review, and analysis of reply re motion to compel	1.1
147.	6/21/10 - Receipt, review, and calendar notice of continuance of motion	.1
148.	6/21/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
149.	6/22/10 - Receipt, review, and analysis of motion to strike	.2
150.	7/2/10 - Receipt, review, and calendar notice of deposition	.1
151.	7/3/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
152.	7/12/10 - Preparation for and attendance at Pitchess motion (Downtown)	3.8
153.	7/12/10 - Receipt, review, and summarize statement of Lowers	1.8
154.	7/13/10 - Receipt, review, and summarize statement of Stehr (Part 1)	1.9
155.	7/13/10 - Receipt, review, and summarize statement of Stehr (Part 2)	1.8
156.	7/13/10 - Receipt, review, and summarize Gardiner Investigation 34	4.9
157.	7/14/10 - Receipt, review, and summarize deposition of Murphy from Rodriguez case	2.2
158.	7/14/10 - Receipt, review, and summarize deposition of Ramos from Rodriguez case	1.1
159.	7/22/10 - Receipt, review, and analyze correspondence from client	.7
160.	7/22/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
161.	7/23/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
162.	7/24/10 - Receipt, review, and analyze memo from Varner	.1
163.	7/24/10 - Receipt, review, and analyze agreement with Gardiner	.4
164.	7/24/10 - Receipt, review, and analyze resolution re agreement with Gardiner	.1
165.	7/24/10 - Receipt, review, and analyze further resolution re agreement with Gardiner	.1
166.	7/24/10 - Receipt, review, and analyze further agreement with Gardiner	.2

167. 7/24/10 - Receipt, review, and analyze memorandum re agreement with Gardiner	.3
168. 7/28/10 - Receipt, review, and analysis of defendant's Petition for Writ of Mandate	3.6
169. 8/9/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
170. 8/10/10 - Receipt, review, and analyze declaration of paralegal	.2
171. 8/10/10 - Correspondence to defense counsel	.1
172. 8/10/10 - Preparation of notice to court	.3
173. 8/10/10 - Preparation of ex parte application	1.5
174. 8/10/10 - Preparation of order re ex parte application	.3
175. 8/10/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
176. 8/11/10 - Receipt, review, and analysis of opposition to ex parte application re Pitchess	.7
177. 8/11/10 - Preparation for and attendance at ex parte application (Downtown)	3.3
178. 8/11/10 - Receipt, review, and analysis of proposed order re Palma notice	.3
179. 8/11/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
180. 8/21/10 - Receipt, review, and calendar continuance of motion	.1
181. 8/21/10 - Preparation of Pitchess motion re Jette	4.4
182. 8/22/10 - Review and revise Pitchess motion re Jette	2.3
183. 8/22/10 - Preparation of Pitchess motion re Rosoff	6.5
184. 8/22/10 - E-mail to co-counsel	.1
185. 8/23/10 - Receipt, review, and analysis of law review article re: declarations of counsel	.6
186. 8/23/10 - Receipt, review, and analysis of Brown, Winfield & Canzoneri case	.7
187. 8/23/10 - Review and revise Pitchess motions re Jette & Rosoff	6.2

230.	10/14/10 - Receipt, review, and calendar notice of continuance	.2
231.	10/15/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
232.	10/18/10 - Receipt, review, and analysis of request for judicial notice re motion for protective order	.3
233.	10/20/10 - Receipt & review of correspondence to defense counsel	.1
234.	10/21/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
235.	10/25/10 - Receipt, review, and analyze proposed stipulation and order	.2
236.	10/25/10 - Receipt, review, and analysis of opposition to Pitchess motion	4.6
237.	10/27/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
238.	10/28/10 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
239.	10/29/10 - Preparation of objection, motion to strike and opposition to brief of alleged "DOE Officers"	4.1
240.	10/29/10 - Receipt & review of correspondence to defense counsel	.1
241.	10/29/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
242.	10/29/10 - E-mail to co-counsel	.1
243.	11/1/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
244.	11/4/10 - Preparation for and attendance at OSC re Palma notice and further Pitchess hearing (Downtown)	3.6
245.	11/11/10 - Receipt, review, and analyze alleged cross-complaint against Rodriguez	.3
246.	11/11/10 - Receipt, review, and analyze e-mail and attached declaration hearing	.5
247.	11/17/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
248.	12/2/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
249.	12/3/10 - Receipt, review, and analysis of Pitchess motion re: Bobb report	1.5
250.	12/6/10 - Preparation for and attendance at ex parte application to lodge motions	

under seal and TSC (Downtown)	3.5
251. 12/6/10 - Preparation of objection to ex parte communications with Court re: Pitchess proceedings	1.1
252. 12/6/10 - Review and analysis of Garcia case	.9
253. 12/6/10 - Review and analysis of Williams case and shepardize same	1.2
254. 12/6/10 - Review and analysis of Chambers case	.7
255. 12/6/10 - Further review and analysis of Evidence Code 1043 and 1045	.4
256. 12/6/10 - Preparation for and attendance at meeting with client (Downtown)	3.7
257. 12/13/10 - Preparation for and attendance at meeting with client (Downtown)	3.4
258. 12/14/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
259. 12/15/10 - Preparation for and attendance at ex parte application to lodge motions under seal and TSC (Downtown)	3.4
260. 12/16/10 - Receipt, review, and analysis of motion to amend	.4
261. 12/16/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
262. 12/21/10 - Receipt, review, and calendar letter from defense counsel	.2
263. 12/22/10 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
264. 12/23/10 - Telephone conference with co-counsel	.3
265. 12/28/10 - Receipt & review of notice of association	.1
266. 12/28/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
267. 12/30/10 - Receipt & review of letter from defense counsel	.1
268. 12/30/10 - Receipt, review, and analysis of e-mail from co-counsel	.1
269. 1/5/11 - Receipt, review, and analysis of Petition for Writ of Mandate and related documents	3.3
270. 1/6/11 - Receipt, review, and analysis of e-mail from co-counsel	.1

271.	1/9/11 - Receipt, review, and analysis of opposition to Bobb Pitchess motion	2.1
272.	1/10/11 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
273.	1/10/11 - E-mail to co-counsel	.1
274.	1/11/11 - Receipt, review, and analysis of reply re Bobb Pitchess motion	.3
275.	1/12/11 - Receipt, review, and analysis of First Amended Complaint	.7
276.	1/12/11 - Receipt & review of letter to defense counsel	.1
277.	1/13/11 - Receipt, review, and analysis of responses to rogs	.3
278.	1/13/11 - Receipt, review, analysis, and calendar correspondence from defense counsel	.1
279.	1/17/11 - Receipt, review, and analysis of OSC re Petition for Writ of Mandate	.3
280.	1/20/11 - Consultation with appellate counsel	.5
281.	1/21/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
282.	1/21/11 - E-mail to co-counsel	.1
283.	1/24/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
284.	1/24/11 - Receipt, review, and analysis of further order re Petition for Writ of Mandate	.3
285.	1/25/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
286.	1/27/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
287.	1/30/11 - Receipt, review, analysis, and calendar order from Court of Appeal	.2
288.	2/8/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
289.	2/10/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
290.	2/19/11 - Further investigation regarding corruption and illegal conduct in BPD	1.2
291.	3/2/11 - Receipt, review, and calendar notice of continuance	.1
292.	3/2/11 - Receipt, review, and analysis of e-mail from co-counsel	.1

293.	3/4/11 - Receipt, review, and analysis of defendant's reply re Petition for Writ of Mandate	1.3
294.	3/12/11 - Receipt, review, analysis, and calendar order from Court of Appeal (x2)	
295.	3/18/11 - Receipt & review of correspondence to defense counsel and enclosure thereto	.3
296.	3/18/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
297.	3/21/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
298.	4/5/11 - Receipt, review, and analysis of e-mail from co-counsel	.2
299.	4/6/11 - Receipt, review, and calendar notice of continuance	.1
300.	4/7/11 - Receipt & review of notice of association	.1
301.	4/7/11 - Receipt & review of corrected notice of association	.1
302.	4/7/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
303.	4/13/11 - Preparation for and attendance at Court of Appeal re Petition for Writ of Mandate	.3
304.	4/18/11 - Receipt, review, and calendar notice of deposition (x5)	.5
305.	4/18/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
306.	4/22/11 - Receipt & review of correspondence to client	.1
307.	4/22/11 - Receipt & review of correspondence to defense counsel	.1
308.	4/22/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
309.	5/2/11 - Receipt & review of correspondence to client	.1
310.	5/3/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
311.	5/4/11 - Receipt, review, and analysis of correspondence from client	.8
312.	5/4/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
313.	5/6/11 - Receipt, review, and analysis of memo from client	1.1

314.	5/6/11 - Receipt, review, and analysis of memo from client	1.5
315.	5/6/11 - Receipt, review, and analysis of memo from client	1.8
316.	5/6/11 - Receipt, review, and analysis of memo from client	2.2
317.	5/23/11 - Receipt, review, and analysis of memo from client	2.4
318.	5/24/11 - Receipt, review, and analysis of joint status report	.3
319.	5/24/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
320.	5/27/11 - Receipt, review, and analysis of further order re Petition for Writ of Mandate	.3
321.	5/27/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
322.	5/31/11 - Preparation for and attendance at Pitchess motion (Downtown)	3.2
323.	5/31/11 - Receipt, review, and analyze correspondence to defense counsel	.1
324.	5/31/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
325.	6/1/11 - Receipt, review, and analyze correspondence to defense counsel	.1
326.	6/1/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.1
327.	6/6/11 - Receipt and review of sealing orders (x2)	.2
328.	6/7/11 - Receipt, review, and calendar notice of continuance	.1
329.	6/7/11 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
330.	6/9/11 - Receipt, review, and analysis of correspondence to counsel for Kreisler	.1
331.	6/9/11 - Receipt, review, and analysis of amended rog responses	.3
332.	6/9/11 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
333.	6/10/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
334.	6/15/11 - Receipt, review, and analysis of order from court of appeal	.1
335.	6/23/11 - Receipt, review, and analysis of e-mail from co-counsel	.1

336.	6/24/11 - Receipt, review, and analysis of opposition re: Pitchess motion re: Rosoff & Jette	3.4
337.	6/24/11 - Receipt, review, and analysis of opposition re: Pitchess motion re: Jette	1.6
338.	6/24/11 - Receipt, review, and analysis of opposition re: Pitchess motion re: Rosoff	1.4
339.	6/24/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
340.	6/26/11 - Preparation of reply re: Pitchess motion re: Rosoff	3.3
341.	6/26/11 - Preparation of reply re: Pitchess motion re: Jette	3.2
342.	6/27/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
343.	6/27/11 - E-mail to co-counsel (x3)	.2
344.	6/28/11 - Receipt, review, and analyze correspondence to defense counsel	.3
345.	6/28/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
346.	6/29/11 - Receipt, review, and analyze motion to compel	1.4
347.	6/29/11 - Receipt, review, and analyze separate statement re motion to compel	.7
348.	6/29/11 - Receipt, review, and analyze compendium re motion to compel	.5
349.	6/29/11 - Review of correspondence from defense counsel defendant's proposed protective order re: Pitchess materials	.5
350.	6/29/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
351.	7/5/11 - Preparation for and attendance at Pitchess motion (Downtown)	3.6
352.	7/5/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
353.	7/5/11 - E-mail to co-counsel (x5)	.3
354.	7/7/11 - Collect for lodging exemplars of protective orders	.3
355.	7/7/11 - Preparation of proposed protective order re: Pitchess materials	1.0

356.	7/7/11 - Receipt, review, and analyze correspondence from defense counsel	.2
357.	7/7/11 - Receipt, review, and analyze correspondence to defense counsel	.2
358.	7/7/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.1
359.	7/7/11 - E-mail to co-counsel (x4)	.2
360.	7/8/11 - Receipt, review, and analyze correspondence from defense counsel	.1
361.	7/8/11 - Receipt, review, and analyze correspondence to defense counsel	.2
362.	7/8/11 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
363.	7/10/11 - Further review of defendant's proposed protective order re: Pitchess materials	.2
364.	7/13/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
		.7
365.	8/1/11 - Receipt, review, and calendar notice of deposition and deposition subpoena	.1
366.	8/4/11 - Preparation for and attendance at Pitchess in camera (Downtown)	.5
367.	8/8/11 - Preparation for and participation in conference call with Court and counsel	.8
368.	8/10/11 - Receipt, review, and analyze objections to notice of deposition	.3
369.	8/17/11 - Further review and analysis of Evidence Code 970 - 973, 980 - 987	.8
370.	8/18/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
371.	8/19/11 - Telephone conference with co-counsel	.3
372.	8/26/11 - Receipt, review, and analysis of opposition to motion to compel	1.2
373.	8/26/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
374.	9/13/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
375.	9/14/11 - Receipt, review, and calendar notice of deposition (x2)	.2
376.	9/14/11 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
377.	9/16/11 - Receipt, review, and analysis of correspondence to defense counsel	.3

378.	9/19/11 - Receipt and review of correspondence to client	.1
379.	9/19/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
380.	9/20/11 - Receipt, review, and analysis of correspondence to defense counsel	.3
381.	9/21/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
382.	9/22/10 - E-mail to co-counsel (x2)	.1
383.	9/23/10 - E-mail to co-counsel	.1
384.	9/28/11 - Receipt and review of correspondence to client (x2)	.2
385.	9/28/11 - Receipt and review of correspondence to defense counsel (x2)	.2
386.	9/28/11 - Receipt, review, and calendar notice of deposition (x2)	.2
387.	9/28/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
388.	9/29/11 - Receipt and review of correspondence to client	.1
389.	9/29/11 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
390.	10/2/11 - Receipt, review, and calendar demand for expert designation	.2
391.	10/3/11 - Receipt and review of correspondence to defense counsel	.1
392.	10/4/11 - Receipt, review, and analysis of memo from client	1.6
393.	10/4/11 - Receipt, review, and calendar notice of deposition	.1
394.	10/4/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
395.	10/5/11 - Receipt and review of correspondence to defense counsel	.1
396.	10/5/11 - Receipt, review, and analysis of further responses to rogs	.3
397.	10/5/11 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
398.	10/5/10 - E-mail to co-counsel (x2)	.1
399.	10/7/11 - Receipt, review, and calendar supplemental rfp, rfas, and rogs	.2

400.	10/7/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
401.	10/10/11 - Review, analysis, and summarize documents produced pursuant to Pitchess motions	5.2
402.	10/11/11 - Review, analysis, and summarize documents produced pursuant to Pitchess motions	4.8
403.	10/12/11 - Review, analysis, and summarize documents produced pursuant to Pitchess motions	4.6
404.	10/13/11 - Review, analysis, and summarize documents produced pursuant to Pitchess motions	4.4
405.	10/14/11 - Receipt and review of correspondence to defense counsel	.1
406.	10/14/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
407.	10/15/11 - Review, analysis, and summarize documents produced pursuant to Pitchess motions	1.8
408.	10/15/11 - Receipt, review, and analysis of BPD org chart	.2
409.	10/16/11 - Receipt, review, and analysis of memos from client (8)	6.4
410.	10/17/10 - Preparation for and attendance at meeting with client (Downtown)	3.4
411.	10/17/11 - Receipt, review, and analysis of expert witness list	.3
412.	10/17/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
413.	10/17/11 - E-mail to co-counsel (x5)	.3
414.	10/19/11 - Receipt, review, and analysis of defendant's expert witness list	.5
415.	10/19/11 - Receipt, review, and calendar notice of deposition	.1
416.	10/19/11 - Receipt and review of correspondence to expert and enclosures thereto	.5
417.	10/19/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
418.	10/19/11 - Receipt, review, and analysis of memos from client (11)	4.4
419.	10/20/11 - Preparation for and travel to deposition of Gardiner	5.6

420.	10/20/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
421.	10/21/10 - Preparation for and attendance at and travel from deposition of Gardiner (San Luis Obispo)	12.5
422.	10/21/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
423.	10/22/11 - Receipt, review, and analysis of defendant's supplemental expert witness list	.5
424.	10/24/11 - Receipt, review, and calendar notice of deposition (x2)	.2
425.	10/24/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
426.	10/26/11 - Receipt, review, and analysis of memo from client	1.1
427.	10/27/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
428.	10/28/11 - Receipt and review of correspondence to defense counsel	.1
429.	10/28/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
430.	10/29/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
431.	11/9/11 - Receipt, review, and analysis of correspondence to expert and enclosures thereto	.4
432.	11/9/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
433.	11/10/11 - Receipt, review, and analysis of responses to RFP, Set 3	.3
434.	11/10/11 - Receipt and review of notice of posting jury fees	.1
435.	11/10/11 - Receipt, review, and analysis of notice of reassignment	.3
436.	11/10/11 - Receipt, review, and calendar of notice of VSC	.2
437.	11/10/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
438.	11/11/11 - Receipt and review of correspondence to defense counsel (x4)	.2
439.	11/11/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
440.	11/15/11 - Preparation for and attendance at ex parte application (Downtown)	3.2

441.	11/16/11 - Preparation for and attendance at VSC (Downtown)	1.1
442.	12/2/11 - Receipt, review, and calendar correspondence from defense counsel	.1
443.	12/7/11 - Receipt, review, and analysis of defendant's ex parte application re augmenting expert witness list and proposed order thereon	2.1
444.	12/7/11 - Telephone conference with co-counsel	.3
445.	12/10/11 - Receipt, review, and analysis of defendant's notice of ruling re ex parte application to augment expert witness list	.2
446.	12/10/11 - Receipt, review, and analysis of defendant's motion to augment expert witness list	1.8
447.	12/10/11 - Receipt, review, and analysis of defendant's augmented expert witness list	1.4
448.	12/13/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
449.	12/14/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
450.	12/20/11 - Legal research re: expert witness designation including CCP 2034.610, 620 and related jurisprudence	3.2
451.	12/20/11 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
452.	12/21/11 - Preparation of opposition to defendant's motion to augment expert witness list	5.5
453.	12/21/11 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
454.	12/21/11 - E-mail to co-counsel (x2)	.1
455.	12/23/11 - Receipt, review, and analysis of e-mail from co-counsel	.1
456.	1/4/12 - Receipt, review, and analysis of defendant's reply re motion to augment	1.5
457.	1/6/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
458.	1/9/12 - Preparation for and attendance at motion to augment expert witness list (Downtown)	3.5

459.	2/6/12 - Receipt, review, and analysis of correspondence to defendant	.8
460.	2/7/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
461.	2/9/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
462.	2/10/12 - Receipt, review, and analysis of defendant's motion in limine 7	1.3
463.	2/13/12 - Review and analysis of Boler case and shepardize same	.7
464.	2/13/12 - Receipt, review, and analysis of notice to appear at trial	.3
465.	2/13/12 - Review and analysis of Winifred case	.9
466.	2/13/12 - Review and analysis of Houston case	.8
467.	2/13/12 - Review and analysis of Rowland case	.5
468.	2/13/12 - Review and analysis of Dukes case	.4
469.	2/13/12 - Review and analysis of Mullen case	.3
470.	2/13/12 - Review and analysis of Morales case	.7
471.	2/13/12 - Review and analysis of Peters case	.7
472.	2/13/12 - Preparation of opposition to defendant's motion in limine 4	4.5
473.	2/13/12 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
474.	2/13/12 - E-mail to co-counsel (x3)	.2
475.	2/14/12 - Further Review and analysis of Evidence Code 780	.6
476.	2/14/12 - Review and analysis of Shooker case	.5
477.	2/14/12 - Review and analysis of Wilson case	1.1
478.	2/14/12 - Preparation of opposition to defendant's motion in limine 5	4.8
479.	2/14/12 - Preparation of opposition to defendant's motion in limine 6	3.9
480.	2/14/12 - Receipt, review, and analysis of e-mail from co-counsel (x5)	.3
481.	2/14/12 - E-mail to co-counsel (x8)	.4

482.	2/15/12 - Receipt, review, and analysis of opposition to motion in limine 1	.9
483.	2/15/12 - Receipt, review, and analysis of opposition to motion in limine 2	.8
484.	2/15/12 - Receipt, review, and analysis of opposition to motion in limine 3	.5
485.	2/15/12 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
486.	2/21/12 - Telephone conference with co-counsel	.3
487.	2/21/12 - Preparation of opposition to defendant's motion in limine	3.3
488.	2/21/12 - Receipt, review, and analysis of e-mail from co-counsel (x4)	.2
489.	2/21/12 - E-mail to co-counsel (x2)	.1
490.	2/22/12 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
491.	2/24/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
492.	2/28/12 - Receipt, review and summarize statement of Alvarenga	1.3
493.	2/28/12 - Receipt, review and summarize statement of Romero - first statement of 5/1/08	1.6
494.	2/28/12 - Receipt, review, and analysis of draft joint trial witness list	.4
495.	2/28/12 - Receipt, review, and analysis of defendant's additional and revised jury instructions	2.2
496.	2/29/12 - Preparation for and attendance at FSC (Downtown)	3.6
497.	3/1/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
498.	3/2/12 - Receipt & review of correspondence to defense counsel	.1
499.	3/2/12 - Receipt, review, and analyze plaintiff's stipulated facts	.2
500.	3/2/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
501.	3/3/12 - Review and summarize trial exhibits	5.2
502.	3/4/12 - Receipt, review and summarize statement of Romero - second statement of 5/1/08	1.1

503.	3/4/12 - Receipt, review and summarize statement of Romero of 5/6/08	.8
504.	3/4/12 - Review and analysis of Mize-Kurzman case	2.1
505.	3/4/12 - Review and analysis of Joaquin case	.7
506.	3/4/12 - Receipt, review, and analysis of memos from client (7)	5.6
507.	3/4/12 - E-mail to co-counsel (x2)	.1
508.	3/5/12 - Preparation for and attendance at trial - voir dire, opening statement, cross-examination of Flad (Downtown)	8.3
509.	3/6/12 - Preparation for and attendance at trial - cross-examination of Flad and Stehr, direct examination of Ramos and Gunn (Downtown)	8.2
510.	3/6/12 - Receipt & review of correspondence to defense counsel	.1
511.	3/6/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
512.	3/7/12 - Preparation for and attendance at trial - cross-examination of Stehr and Gardiner (Downtown)	8.0
513.	3/7/12 - Receipt, review, and analysis of memo from client	.1
514.	3/7/12 - Receipt and review of trial subpoena to Lowers and proof of service of same	.1
515.	3/7/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
516.	3/8/12 - Preparation for and attendance at trial - cross-examination of Gardiner, direct examination of Taylor (Downtown)	8.1
517.	3/8/12 - Preparation of special verdict	1.2
518.	3/8/12 - Preparation of jury instructions - further	1.5
519.	3/8/12 - Review and revise special verdict	.7
520.	3/8/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
521.	3/9/12 - Preparation for and attendance at trial - direct examination of Leoni, Kim, and Quesada (Downtown)	8.1
522.	3/10/12 - Receipt and review of on-call agreement re: Kreisler	.1

523.	3/11/10 - Receipt, review, and analysis of economist's report	2.2
524.	3/11/10 - Review and summarize economist's deposition	2.5
525.	3/11/10 - Preparation of direct of economist	1.1
526.	3/12/12 - Preparation for and attendance at trial - direct examination of Taylor, cross-examination of Lowers (Downtown)	8.2
527.	3/12/12 - Further review and analysis of Patten case	.7
528.	3/12/12 - Further review and analysis of Fisher case	.2
529.	3/12/12 - Review and analysis of Alameda case	1.4
530.	3/12/12 - Further review and analysis of Sada case	.2
531.	3/12/12 - Further review and analysis of Doe case	.1
532.	3/13/12 - Preparation for and attendance at trial - direct examination of Taylor and Smith (Downtown)	8.4
533.	3/13/12 - Further review and analysis of Morgan case	.3
534.	3/13/12 - Review and revise jury instructions	1.1
535.	3/13/12 - Preparation of cross-examination questions re: Romero	1.2
536.	3/14/12 - Preparation for and attendance at trial - direct examination of Puglisi, Misquez, Lynch, Angel, and Humiston (Downtown)	8.1
537.	3/14/12 - Preparation of memo of points for closing rebuttal	1.5
538.	3/14/12 - Further review and revise special verdict	.5
539.	3/14/12 - Preparation of trial brief re worker's compensation and collateral source	3.9
540.	3/14/12 - Further review and revise jury instructions	.6
541.	3/15/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
542.	3/15/12 - Preparation for and attendance at trial - jury instruction conference, direct examination of Humiston, closing arguments (Downtown)	8.2

543.	3/19/12 - Telephone conference with co-counsel	.5
544.	3/21/12 - Receipt and review of proposed judgment on special verdict	.1
545.	3/21/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
546.	4/4/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
547.	4/5/10 - Receipt, review, and analysis of plaintiff's opposition to objections to judgment	.3
548.	4/16/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
549.	4/17/12 - Receipt and review of judgment on special verdict	.1
550.	4/25/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
551.	4/24/12 - Review and analysis of motion for injunctive relief	1.0
552.	4/27/10 - Receipt, review, and analysis of cost bill	1.1
553.	4/27/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
554.	5/4/12 - Receipt and review of notice of intent to move for new trial	.1
555.	5/4/12 - Receipt, review , and calendar notice of hearing for motion for new trial	.2
556.	5/9/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
557.	5/12/12 - Receipt, review, and analysis of memorandum of points and authorities re Motion for New Trial	3.8
558.	5/12/12 - Receipt, review, and analysis of declaration of Ronald Frank re Motion for New Trial	3.5
559.	5/12/12 - Receipt, review, and analysis of correspondence from defense counsel re Motion for New Trial	.1
560.	5/13/12 - Receipt, review, and analysis of declaration of Carol Amberg re Motion for New Trial	3.1
561.	5/13/12 - Receipt, review, and analysis of declaration of Linda Savitt re Motion for New Trial	

562.	5/13/12 - Receipt, review, and analysis of declaration of Carol Humiston re Motion for New Trial	.3
563.	5/13/12 - Receipt, review, and analysis of request for judicial notice re Motion for New Trial	
564.	5/14/12 - E-mail to co-counsel (x3)	.2
565.	5/15/12 - Further review and analysis of CCP 657 and annotations thereto	2.6
566.	5/15/12 - Review and analysis of Clements case	.7
567.	5/15/12 - Review and analysis of Earl case	.8
568.	5/15/12 - Review and analysis of Enyart case	.7
569.	5/15/12 - Review and analysis of George case	.6
570.	5/15/12 - Review and analysis of Mast case	.6
571.	5/15/12 - Review and analysis of Philbrick case	.5
572.	5/15/12 - Review and analysis of Ross case	.3
573.	5/15/12 - Review and analysis of Scott case	.3
574.	5/15/12 - Review and analysis of Nazir case	1.2
575.	5/15/12 - Preparation of opposition to motion for new trial/jnov	4.2
576.	5/16/12 - Further review and analysis of Labor Code 1102.6	2.6
577.	5/15/12 - Review and analysis of Cotran case	1.1
578.	5/16/12 - Review and revise opposition to motion for new trial/jnov	2.4
579.	5/16/12 - Preparation of evidentiary objections to motion for new trial/jnov	3.4
580.	5/16/12 - E-mail to co-counsel (x2)	.1
581.	5/17/12 - Receipt, review, and analysis of e-mail from co-counsel (x2)	.1
582.	5/22/12 - Receipt, review, and analysis of motion to tax costs	3.9
583.	5/22/12 - Receipt, review, and analysis of e-mail from co-counsel	.1

584.	5/22/12 - Telephone conference with co-counsel	.5
585.	6/1/12 - Receipt, review, and analysis of e-mail from co-counsel	.1
586.	6/5/12 - Receipt, review, and analysis of e-mail from co-counsel (x3)	.2
587.	6/5/12 - E-mail to co-counsel (x4)	.2
588.	6/6/12 - Preparation for and attendance at motion for new trial trial (Downtown)	3.5
589.	6/6/12 - Review and analyze opposition to motion to tax costs	2.1
590.	6/10/12 - Preparation of declaration re: motion for attorneys fees	2.4
591.	6/10/12 - E-mail to co-counsel	.1
TOTAL		590.1
590.1 hours x \$600.00 per hour =		\$354,060

EXHIBIT "B"

CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/28/07

DEPT. 23

HONORABLE Tricia Ann Bigelow

JUDGE

E T ESPINOZA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C VAUGHN, C.A.,

Deputy Sheriff

NONE

Reporter

BC353261

Plaintiff
Counsel

FRANK LIMA

NO APPEARANCES

ENTERED

VS

Defendant
Counsel

CITY OF LOS ANGELES

FILED

170.6 DAU (Pltff)

NATURE OF PROCEEDINGS:

RULING RE SUBMITTED MATTER

The Court having taken MOTION OF PLAINTIFF, FRANK LIMA FOR AN AWARD OF ATTORNEY FEES AND COSTS under submission on November 27, 2007, now rules as follows:

The Court award attorney's fees in the amount of \$274,675.00.

The ruling is more fully reflected in the Court Ruling re Submitted Matter which is filed this date and incorporated herein by reference.

CLERK'S CERTIFICATE OF MAILING/
NOTICE OF ENTRY OF ORDER

I, the below named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that this date I served Notice of Entry of the above minute order of 11/28/2007 upon each party or counsel named below by depositing in the United States mail at the courthouse in Los Angeles, California, one copy of the original entered herein in a separate sealed envelope for each, addressed as shown below with the postage thereon fully prepaid.

Date: November 28, 2008

MINUTES ENTERED 11/28/07 COUNTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 11/28/07

DEPT. 23

HONORABLE Tricia Ann Bigelow

JUDGE

E T ESPINOZA

DEPUTY CLERK

HONORABLE

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

C VAUGHN, C.A.,

Deputy Sheriff

NONE

Reporter

BC353261

Plaintiff

Counsel

FRANK LIMA

NO APPEARANCES

VS

Defendant

CITY OF LOS ANGELES

Counsel

170.6 DAU (Pltff)

NATURE OF PROCEEDINGS:

John A. Clarke, Executive Officer/Clerk

By: E.T. Espinoza
E T Espinoza

Gregory Smith
9952 Santa Monica Blvd.
Beverly Hills, CA 90212

Chris Brizzolara
1528 16th Street
Santa Monica, CA 90212

Rockard J. Delgadillo, City Attorney
Beth D. Orellana, Deputy City Attorney
Employment Litigation
700 City Hall East
200 N. Main Street
Los Angeles, CA 90012

FILESTAMP

ORIGINAL FILED

NOV 28 2007

LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FRANK LIMA

CASE NUMBER
BC353261

PLAINTIFF(S)

COURT RULING RE SUBMITTED MATTER

VS.

CITY OF LOS ANGELES

DEFENDANT(S)

MATTER

MATTER

Frank Lima v. City of Los Angeles, et. al., BC 353261

Ruling:

The Court awards attorney's fees in the amount of \$274,675.00.

Background Facts:

On May 31, 2006, Plaintiff Captain Frank Lima filed suit against Defendant-Employer City of Los Angeles – apparently in its capacity as the Los Angeles Fire Department – in Los Angeles County Superior Court. The complaint states two causes of action for: (1) sex-based employment discrimination under FEHA; and (2) retaliation under FEHA. The complaint was answered by the City of Los Angeles on August 29, 2006. The factual allegations underlying the complaint are that Lima, in his role as a Fire Captain, was supervising a training drill in June of 2004, when a female firefighter under his command was unable to perform her assigned task. The female firefighter, Melissa Kelley, apparently aggravated a prior injury in the course of the drill, and later lodged a complaint that Captain Lima was singling her out, and harassing her. Upon this complaint, the Fire Department launched an investigation into Captain Lima's conduct, at which time Assistant Chief Andrew Fox met with Captain Lima and allegedly informed him through various statements that he was obligated to treat female recruits preferentially. Captain Lima refused this instruction, and alleges that he was subsequently retaliated against. Captain Lima subsequently filed a complaint with DFEH and received a right-to-sue letter. The Court notes that the same allegations were asserted to give rise to both causes of action.

On May 2, 2007, the Court heard argument regarding the summary adjudication of the first and second causes of action, and took the matter under submission. At oral argument, counsel for Captain Lima indicated that they would be willing to submit to a tentative ruling granting summary adjudication in favor of the City as to the first cause of action. In a written ruling issued on May 14, 2007, the Court denied summary adjudication as to the second cause of action.

On May 22, 2007, jurors were empanelled and sworn for trial on the matter. The trial commenced on May 24, 2007. On June 7, 2007, the jury returned a verdict in favor of Captain Lima. The total verdict was for \$3,750,000.00.

On October 5, 2007, Captain Lima filed a motion seeking to have the Court fix attorneys fees in the matter. The motion requests attorney's fees in the amount of \$ 411,637.50. On November 14, 2007, the City of Los Angeles filed an opposition to motion to tax costs. On November 21, 2007, Captain Lima filed a reply.

Analysis:

Captain Lima, as the prevailing plaintiff in a FEHA action is entitled to an award of his attorney's fees, pursuant to the statute and also pursuant to CCP § 1021.5, for pursuing litigation in the public interest. See Government Code § 12965(b) and *Horsford v. Board of Trustees of California State University* (2005) 132 Cal.App.4th 359, 394 concerning FEHA; and *Tipton-Whittingham v. City of Los Angeles* (2004) 34 Cal.4th 604, 610 discussing the similarity of the fee provisions in FEHA and CCP § 1021.5. The City does not contest the availability of attorneys fees as a general proposition, but merely the amount of the award and the circumstances of its grant.

Preliminarily, the Court notes that the agreement between Captain Lima and Attorney Smith calls for compensation to Attorney Smith if Lima prevailed at trial of the greater of (a) the statutory award of attorney's fees, or (b) 40% of the jury award and the attorney's fee award (see Orellano Decl. ¶ 3). As the jury awarded Lima \$ 3.75 million dollars, 40% of that amount plus the attorney's fee award will certainly be greater than the statutory fee award by itself. The City asserts that this recommends an award of nothing, relying on authority which suggests that excessive awards are unreasonable, and that awards of unreasonable attorneys fee are an abuse of discretion. *Serrano v. Unruh* (1982) 32 Cal.3d 621, 635; *Thayer v. Wells Fargo Bank, N.A.* (2001) 92 Cal.App.4th 819, 844-845. There is no authority provided which is directly on point, and the Court finds the City's argument to be largely unpersuasive. Captain Lima is plainly entitled to an award of reasonable attorneys fees incurred in the prosecution of his action against the

City. The subsequent exchange of monies between Lima and Attorney Smith is a matter of the contract between the two.

Turning to the hours requested in conjunction with the matter, the Court finds that the City, on its own initiative and through the declaration of Ken Moscarel, a defense expert on attorney's fees, engage in a rather unseemly attempt to denigrate the fees which may be reasonably charged by Attorneys Smith, Brizzolara, and Chun on Captain Lima's behalf. The attempts are unconvincing. Initially, the City attempts to rely on the assertions of Moscarel (whose article on "branding" in relation to enhanced fee requests is featured in a recent edition of the *Los Angeles Daily Journal*) and the unpublished musings of the Court of Appeal in *Gonzalez v. Roadway Express* 2005 WL 3470678 (Dec. 2005) for the proposition that attorneys in smaller firms should be entitled to a lesser hourly rate than attorneys of similar experience at larger firms. The propositions advanced in *Gonzalez*, and by Moscarel are merely persuasive authority – and they fail to persuade. While the lionization of the "white-shoe" law firm's hiring standards is not an unfamiliar phenomenon in law schools, trial courts often note that GPAs and diplomas do not necessarily translate into effective litigation skills and trial advocacy. The infatuation of larger firms with credentials certainly serves to create a gap in the skills and analytical abilities in an abstract population of new lawyers, but there is no authority or evidence suggesting that such a gap persists as attorneys gain experience. Indeed, the average small firm litigation partner is likely to have multiple times more trial experience than a large firm partner with commensurate experience. Moreover, these discrepancies in ability are relevant to the mass of attorneys in a state or metropolitan area, but not to individual attorneys. Here, the results achieved by Attorney Smith – soundly defeating the City of Los Angeles, and securing a multi-million dollar verdict for Captain Lima – establish his *bona fides* in a manner sufficiently convincing to the Court.

The City also asserts that the matter was not staffed in the most efficient manner it could have been, providing no California authority suggesting that the Court is obligated to manage the tasks to which a party's attorneys are assigned.¹ The City then suggests

¹ *Welch v. Metropolitan Life Insurance Co.* (9th Cir. (Cal.) 2007) 480 F.3d 942 – concerning billing increments; *MacDougal v. Catalyst Nightclub* (N.D. Cal. 1999) 58 F.Supp.2d 1101; *Ursic v. Bethlehem Mines* (3rd Cir. 1983) 719 F.2d 670; *Mautner v. Hirsch* (S.D.N.Y. 1993) 831 F.Supp. 1058 – concerning the delegation of tasks to the most efficient (i.e. cheapest) capable biller.

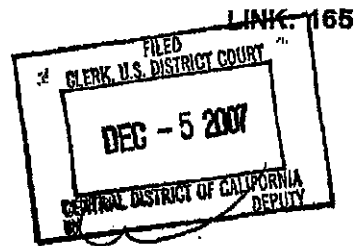
that the requested attorney's fees be taxed by 10% in response to this asserted billing practice, again without providing any authority or argument as to why this is appropriate. The Court certainly notes that assignment of tasks to the most efficient capable attorney is optimal, but finds no authority for the proposition that inefficient distribution of tasks amongst attorneys in a firm equates to billing malfeasance such that any bills requested are "beyond reason." Therefore, the Court rejects the suggestion that the staffing of the matter is unreasonable. The City further asserts that the time spent opposing the motion for summary judgment and the motion for new trial filed by the City are excessive. The memorandum of points and authorities recommends a percentage tax on the claimed hours without suggesting why this is appropriate.²

However, the Court does agree with the City that the attorneys fees awarded in the action are not appropriately subject to a multiplier. The Court finds that multipliers are appropriately applied when necessary to provide reasonable compensation in connection with counsel who prevails in a matter of public interest. *Weeks v. Baker & McKenzie* (1998) 63 Cal.App.4th 1128, 1171-1172. Here, the Court notes that a multiplier based on the contingent nature of Attorney Smith's recovery is inappropriate, as the contingent fee agreement which the plaintiff has entered into has secured adequate compensation for them. Moreover, the Court finds that the issues in the matter presented at trial were not sufficiently novel or difficult to warrant a multiplier.

Pursuant to the foregoing discussion, the Court awards attorney's fees in the amount of \$274,675.00 consisting of 358.5 hours of Attorney Smith's time at \$ 500.00 per hour, 118.6 hours of Attorney Brizzolara's time at \$500.00 per hour, and 144.5 hours of Attorney Chun's time at \$250.00 per hour. The Court finds these fees to be reasonable, and awards no multiplier thereto.

² The percentage taxations recommended by the memorandum reference the declaration of Moscarel. Moscarel does not declare that he has any knowledge of what time Attorney Smith actually spent on these motions (see Moscarel ¶ 86). Moscarel proceeds from the assumption that certain federal decisions recommendation percentage taxations are appropriate. Absent California authority empowering the Court to engage in such "guessimation," the Court declines the invitation to do so.

EXHIBIT "C"



8 UNITED STATES DISTRICT COURT
9 FOR THE CENTRAL DISTRICT OF CALIFORNIA
10

11 ARTHUR KRUISHEER,

Case No. CV 05-3425 GAF (VBKx)

12 Plaintiff,

MEMORANDUM AND ORDER
REGARDING PLAINTIFF'S MOTION
FOR ATTORNEY'S FEES

13 v.
14

15 TOYS 'R' US - DELAWARE, INC. and
16 DOES 1 through 100, inclusive,

17 Defendants.
18
19

20 I.

21 INTRODUCTION

22 This is an action brought pursuant to California's Fair Employment and
23 Housing Act ("FEHA") based upon age and disability discrimination by Defendant
24 Toys 'R' Us against its former employee, Plaintiff Arthur Kruisheer. On October 12,
25 2007, the jury reached a verdict in favor of Plaintiff, finding that both Plaintiff's age
26 and medical condition were motivating reasons for his termination. (See 10/19/07
27 Judgment at 2.) The jury awarded Plaintiff damages totaling \$1,130,000. (Id. at 3.)
28 //

1 Plaintiff now moves the Court for an award of attorney's fees in a lodestar
2 amount of "at least" \$265,875, "plus an appropriate multiplier of not less than 1.7" for
3 a total of \$452,000. (Not. of Mot. at ii.) The Court initially concluded that the motion
4 should be granted but with a multiplier of 1.2. Having conducted a hearing on the
5 motion and undertaking a further review of the record, the Court **GRANTS** Plaintiff's
6 motion for attorney's fees with the 1.2 multiplier. The following briefly sets forth the
7 Court's reasoning.

8 **II.**

9 **DISCUSSION**

10 **A. ENTITLEMENT TO ATTORNEY'S FEES**

11 Plaintiff asserts that he is entitled to attorney's fees on two separate grounds:

12 (1) FEHA itself; and (2) California's private attorney general doctrine. The Court finds
13 that Plaintiff is entitled to attorney's fees under the statutory framework set forth under
14 FEHA.

15 **1. ATTORNEY'S FEES UNDER FEHA**

16 Cal. Gov. Code § 12965(b) provides in relevant part that "[I]n actions brought
17 under this section, the court, in its discretion may award the prevailing party
18 reasonable attorney fees and costs" Cal. Gov. Code § 12965(b). The term "in
19 its discretion" means that "the court, in a manner that, in the judgment of the court,
20 will best effectuate the purposes of FEHA, may award the prevailing party reasonable
21 attorney's fees and costs." Horsford v. Board of Trustees of Cal. State Univ., 132
22 Cal. App. 4th 359, 394 (Ct. App. 2005) (internal quotation marks and alterations
23 omitted).

24 "The award of reasonable attorney fees accomplishes the Legislature's
25 expressly stated purpose of FEHA to provide effective remedies that will eliminate . . .
26 discriminatory practices." Id. (internal quotation marks and citations omitted). "In
27 order to be effective in accomplishing the legislative purpose of assuring the
28 availability of counsel to bring meritorious actions under FEHA, the goal of an award

1 of attorney fees is to fix a fee at the fair market value for the particular action." Id.
2 (Internal quotation marks and citations omitted). Fee awards under FEHA, therefore,
3 "should be fully compensatory" and absent circumstances rendering the award unjust,
4 the fee award "should ordinarily include compensation for all the hours reasonably
5 spent in litigating the action to a successful conclusion." Id. (citations omitted).

6 Here, It is undisputed that Plaintiff is a "prevailing party" in this action. For
7 attorney's fee awards authorized by statute, a "prevailing party" is generally one in
8 whose favor a net judgment has been entered. See Smith v. Rae-Venter Law Group,
9 29 Cal. 4th 345, 354 (2002); see also 10/19/07 Judgment at 2-3. Defendant does not
10 contend otherwise. Indeed, Defendant's Opposition all but concedes that Plaintiff is
11 entitled to attorney's fees, and only disputes the amount of those fees. (See

12 generally Opp.) Accordingly, the Court concludes that Plaintiff is entitled to attorney's
13 fees under FEHA.

14 2. ATTORNEY'S FEES UNDER THE PRIVATE ATTORNEY GENERAL DOCTRINE

15 The Court notes its skepticism of Plaintiff's entitlement to attorney's fees
16 under California's private attorney general doctrine.¹ Given the above conclusion that
17 he is entitled to attorney's fees under FEHA, however, the Court need not address
18 this alternate ground.

19 B. LODESTAR CALCULATION

20 1. THE LEGAL STANDARD

21 "[A] court assessing attorney[s] fees begins with a touchstone or lodestar
22 figure, based on the careful compilation of the time spent and reasonable hourly
23 compensation of each attorney involved in the presentation of the case."

24 DaimlerChrysler Corp. 34 Cal. 4th at 579 (citing Serrano v. Priest ("Serrano III"), 20

25
26
27 ¹ For example, the Court doubts: (1) whether the present action conferred a "significant benefit"
28 on the general public or broad class of persons within the meaning of the doctrine; or (2) that
the necessity and financial burden of private enforcement transcended Plaintiff's personal
interest in the litigation. See Cal. Code Civ. Proc. § 1021.5; Press v. Lucky Stores, Inc., 34 Cal.
3d 311, 317-18 (1983).

1 Cal. 3d 25, 48, n.23 (1977) (internal quotation marks omitted)). The California
2 Supreme Court has "expressly approved the use of prevailing hourly rates as a basis
3 for the lodestar, noting that anchoring the calculation of attorney[']s fees to the
4 lodestar adjustment method is the only way of approaching the problem that can
5 claim objectivity, a claim which is obviously vital to the prestige of the bar and the
6 courts." *Id.* (citation omitted).

7 **2. ANALYSIS**

8 **a. Hours Worked by Plaintiff's Counsel**

9 "[V]erified time statements of the attorneys, as officers of the court, are
10 entitled to credence in the absence of a clear indication the records are erroneous."
11 Horsford v. Bd. of Trs. of Cal. State Univ., 132 Cal. App. 4th 359, 396 (Ct. App. 2005).

12 The Court concludes that the verified time statements provided by Plaintiff's counsel
13 appear reasonable and are entitled to deference. The Court notes, moreover, that
14 Defendant does not object to any of these time entries. (*See* Opp. at 9.) Therefore,
15 the Court finds that all of the 568 hours worked by Plaintiff's counsel – 425.5 hours by
16 Mr. Brizzolara, 70 hours by Mr. Smith, and 72.5 hours by Ms. Chun – are
17 compensable.

18 **b. Hourly Rate of Plaintiff's Counsel**

19 "A reasonable hourly rate reflects the skill and experience of the lawyer,
20 including any relevant areas of particular expertise and the nature of the work
21 preformed." Crommie v. State of Cal. Pub. Util. Comm'n, 840 F. Supp. 719, 725
22 (N.D. Cal. 1994) (citations omitted). "The court may consider the applicants'
23 customary billing rates and the prevailing rate charged by attorneys of similar skill and
24 experience for comparable legal services in the community." *Id.* (citation omitted).
25 Moreover, courts generally look to the rates for attorneys at the time of the prevailing
26 party's fee application, rather than the rates charged by that attorney at the time
27 litigation began. *See Gates v. Deukmejian*, 987 F.2d 1392, 1406 (9th Cir. 1993).

1 Mr. Brizzolara requests an hourly rate of \$500.00, which the Court finds
2 reasonable. Among other things, he has 24 years of litigation experience (Brizzolara
3 Decl. ¶ 3), has recently tried six jury trials resulting in jury verdicts in excess of \$1
4 million (id. ¶ 10), has had experience in FEHA-based discrimination cases (id.).
5 These factors demonstrate that Mr. Brizzolara has the skill, experience, and level of
6 expertise that justify his requested hourly rate. See Crommie, 840 F. Supp. at 725.
7 Moreover, Defendant does not dispute that Brizzolara is entitled to an hourly rate of
8 \$425.00. (Opp. at 12.) Given the two years that have elapsed since Judge Cooper
9 approved that hourly rate for Brizzolara in another federal action, an increase of
10 \$75.00 per hour is reasonable, considering that Brizzolara has gained additional
11 experience, and successfully litigated additional jury trials since that time (see
12 Brizzolara Decl. ¶ 10).

13 Mr. Smith also requests an hourly rate of \$500.00. Mr. Smith has been
14 practicing law for twenty years (Smith Decl. ¶ 3), and has a record comparable to that
15 of Mr. Brizzolara. He and Mr. Brizzolara jointly tried the case and shared many of the
16 responsibilities for preparing the case for presentation to the jury. Indeed, as Mr.
17 Smith represented at the hearing, he has tried more cases to verdict than has Mr.
18 Brizzolara. Accordingly, the Court concludes that \$500.00 is a reasonable hourly
19 rate for his skill and experience.²

20 Ms. Chun requests an hourly rate of \$250.00 which Defendant does not
21 dispute. The Court finds that given her level of skill and experience handling
22 employment law cases, the requested hourly rate is reasonable.

23 Accordingly, the Court accepts the following lodestar calculation:
24
25
26

27 ² The Court notes that Defendant's counsel disputes Brizzolara and Smith's requested rate is
28 excessive, and by way of example, points out that his own hourly rate is \$355.00. (Sanchez
Decl. ¶ 9.) The Court does not find this argument persuasive, given that Brizzolara and Smith
have almost twice as many years of legal experience as Defendant's counsel.

1		Brizzolara	Smith	Chun
2	Hours Worked	425.5	70	72.5
3	Hourly Rate	\$500	\$500	\$250
4	Lodestar	\$212,750	\$35,000	\$18,125

5
6 **Total (Unadorned) Lodestar: \$265,875**

7 **C. MULTIPLIER**

8 **1. THE LEGAL STANDARD**

9 **a. Generally**

10 "[T]he lodestar adjustment method, including discretion to award fee
11 enhancements, is well established under California law." Ketchum v. Moses, 24 Cal.

12 4th 1122, 1137 (2001). "In FEHA cases, the trial court has the discretion to apply a
13 multiplier or fee enhancement to the lodestar figure to take into account a variety of
14 factors, including the quality of the representation, the novelty and difficulty of the
15 issues presented, the results obtained and the contingent risk involved." Greene v.
16 Dillingham Constr. N.A., Inc., 101 Cal. App. 4th 418, 426-27 (Ct. App. 2002) (citing
17 Flannery, 61 Cal. App. 4th at 646; Serrano III, 20 Cal. 3d at 48-49).

18 "Of course, the trial court is *not required* to include a fee enhancement to the
19 basic lodestar figure for contingent risk, exceptional skill, or other factors, although it
20 retains discretion to do so in the appropriate case." Ketchum, 24 Cal. 4th at 1138
21 (emphasis added). Moreover, "the party seeking a fee enhancement bears the
22 burden of proof." Id.

23 **b. Consideration of Contingent Risk**

24 When determining whether to apply a multiplier, "the court determines,
25 retrospectively, whether the litigation involved a contingent risk or required
26 extraordinary legal skill justifying augmentation of the unadorned lodestar in order to
27 approximate the fair market rate for such services." Dillingham, 101 Cal. App. 4th at
28 427 (citation and internal quotation marks omitted). Moreover, the adjustment to the

1 lodestar figure constitutes "earned compensation; unlike a windfall, it is neither
2 unexpected nor fortuitous. Rather, it is intended to approximate market-level
3 compensation for such services, which typically includes a premium for the risk of
4 nonpayment or delay of attorney fees." Id. (citing Ketchum, 24 Cal. 4th at 1138). The
5 contingent risk factor is used to determine a fee that is likely to entice competent
6 counsel to undertake difficult public interest cases. See San Bernardino Valley
7 Audubon Society v. County of San Bernardino, 155 Cal. App. 3d 738, 755 (Ct. App.
8 1984).

9 At the same time, courts have cautioned that application of a multiplier creates
10 the risk of double-counting with the lodestar figure itself. For example, "[t]he factor of
11 extraordinary skill, in particular, appears susceptible to improper double counting; for

12 the most part, the difficulty of a legal question and the quality of representation are
13 already encompassed in the lodestar. A more difficult legal question typically requires
14 more attorney hours, and a more skillful and experienced attorney will command a
15 higher hourly rate." Ketchum, 24 Cal. 4th at 1138-39. "Thus, a trial court should
16 award a multiplier for exceptional representation *only* when the quality of
17 representation far exceeds the quality of representation that would have been
18 provided by an attorney of comparable skill and experience billing at the hourly rate
19 used in the lodestar calculation. Otherwise, the fee award will result in unfair double
20 counting and be unreasonable." Id. at 1139 (emphasis added).

21 c. Analysis

22 Plaintiff offers several reasons as to why a multiplier of "at least" 1.7 is
23 warranted: (1) the contingent risk involved in prosecuting this action (Mot. at 13); (2)
24 counsel's level of skill and commitment in prosecuting this action (Id. at 16); (3) the
25 success of litigation (Id. at 17); and (4) the need to "make Plaintiff whole" to effectuate
26 the purposes of FEHA (Id. at 18). The Court finds the claim for a 1.7 multiplier
27 unpersuasive but concludes that a modest multiplier of 1.2 is appropriate.
28

1 (1). Contingent Risk

2 The contingent risk factor weighs most strongly in awarding a multiplier in this
3 case. The purpose of a contingent risk inquiry is to determine a fee that is likely to
4 entice competent counsel to undertake difficult public interest cases. See San
5 Bernardino Valley Audubon Society, 155 Cal. App. 3d at 755. Here, while the "public
6 interest" and "difficult" nature of this case is somewhat in doubt, it is undisputed that
7 this was a FEHA case dealing with age and disability discrimination and it appears
8 unlikely that Plaintiff would have been able to obtain these attorneys but for the
9 contingent nature of their fees. (Brizzolara Decl. ¶ 26.)

10 As noted by several California courts, a court may determine retrospectively
11 that the litigation involved a contingent risk justifying increasing the lodestar to
12 approximate the fair market value of the attorney's services. Dillingham, 101 Cal.
13 App. 4th at 427; Ketchum, 24 Cal. 4th at 1132. Essentially, the multiplier
14 compensates counsel for the risk of the "loan of [their] services." Ketchum, 24 Cal.
15 4th at 1132-22. Here, given that Plaintiff's counsel was involved in this case since
16 April 2004 (see Brizzolara Decl. ¶ 26; id., Ex. 1 [Brizzolara Timesheet] at 1), it appears
17 appropriate to fashion a contingent risk multiplier that awards counsel the fair market
18 value of their services since the three and a half years from the time they accepted
19 this case. See Horsford, 132 Cal. App. 4th at 399-401 (holding trial court abused its
20 discretion by failing to consider factors for awarding multiplier and noting in particular
21 that counsel's compensation had been deferred for several years). The question is:
22 how much?

23 Having litigated and presided over many employment cases, the Court has
24 seen many such disputes that presented a greater risk than this lawsuit. Employment
25 discrimination cases most often turn on the issue of whether the reasons given for
26 Plaintiff's termination were a pretext to conceal a discriminatory motive. In this case,
27 Defendant's own records virtually guaranteed that a jury would find pretext. Although
28 Defendant to this day asserts that Plaintiff was terminated because it did not have

1 relevant managerial level positions open when Plaintiff was released by his doctor to
2 return to work, that assertion is belied by documentation that Defendant's employees
3 were discussing the need to fill many such positions during the relevant time period.
4 (Exh. 241.) On April 16, 2003, just two weeks after Plaintiff asked to return to work,
5 Craig Stone, Plaintiff's area manager, sent an email to Joy Stich in Human Resources
6 advising that he had an "immediate need" to fill seven relevant, management level
7 positions. (Id.) That same document included the following passage: "Needs Now –
8 2 manager hires needed for Director bench mid range." (Id.) Regarding this
9 language, Toys R Us could only lamely assert that "immediate need " meant
10 something other than a current need and that "now" meant something other than at
11 once or at the present time. Likewise, Defendant's records include communication

12 with a person seeking employment in a managerial position like the one formerly held
13 by Plaintiff, and he was encouraged to submit his application. (Exhs. 237, 238.) In
14 the words of Mike Turner, one of the decision makers involved in Plaintiff's
15 termination, regarding a possible severance:

16 Due to the length of service it would be expensive. We would pay out
17 his vac/eto upon his termination. ***He really isn't someone we want to***
18 ***put into another position anyway.***

19 (Exh. 230; emphasis added.) Given the background evidence of age and disability
20 based discriminatory motives, it didn't take an Edward Bennet Williams to persuade
21 the jury that the articulated reason for Plaintiff's termination – that no positions were
22 available to be filled – was not only a pretext but was an outright lie.

23 (2). Skill and Commitment of Plaintiff's Counsel

24 Plaintiff asserts in somewhat conclusory fashion that the skill and commitment
25 of Plaintiff's counsel in this case warrants awarding a multiplier. (Mot. at 16 ("Counsel
26 for plaintiff were required to spend extensive time, effort, and money to prosecute this
27 matter.")) This argument does not distinguish this situation from any other case
28 where, presumably, counsel for a party also expends extensive time, effort, and

1 resources litigating their case. Moreover, courts have cautioned against using the skill
2 and commitment of counsel to award a multiplier, given that these factors are likely
3 already included in a lodestar calculation. See Ketchum, 24 Cal. 4th at 1138-39 ("A
4 more difficult legal question typically requires more attorney hours, and a more skillful
5 and experienced attorney will command a higher hourly rate.").

6 Frankly, the record does not support the conclusion that counsel committed a
7 disproportionate amount of time to this case, or that they were particularly vigorous in
8 discovering all relevant evidence that bore on their client's claim. Moreover, in the
9 Court's view, Plaintiff had available alternative theories that more readily fit the fact
10 pattern and would have been even easier to prove than the claims presented to the
11 jury. Thus, the Court finds little in the record to suggest that counsel made the most
12 of their skills and that they were more deeply committed to this case than to any other
13 lawsuit on their docket.

14 (3). Success of Litigation

15 Plaintiff also asserts that the success of litigation justifies awarding a
16 multiplier. (Mot. at 17.) In support, Plaintiff cites Serrano III, 20 Cal. 3d at 49, which
17 only noted that one of the factors that that court considered in awarding a multiplier
18 was that two law firms had been involved in an equal share of the success in the
19 litigation. See id. Serrano III did not stand for the broad proposition that any
20 successful litigation justified awarding a multiplier, and I have not found any case law
21 to that effect. Accordingly, and again for reasons discussed above, Plaintiff's success
22 in this readily winnable case indicates that, at most, a small multiplier would be
23 appropriate.

24 (4). Need to "Make Plaintiff Whole"

25 Plaintiff also argues that a multiplier is required to "make Plaintiff whole," that
26 is, to put him where he would have been but for Defendant employer's discriminatory
27 conduct. (Mot. at 18.) First, it is important to note that Plaintiff's counsel indicates
28 that Brizzolara and Smith entered into a contingency fee agreement with Plaintiff.

1 (Brizzolara Decl. ¶ 26.) Counsel, however, does not state what the fee agreement is
2 for. (See generally id.) Instead, Plaintiff's counsel indicates that the "standard"
3 contingency fee percentage in Southern California "for matters of this nature" is 40%
4 of any recovery received at or following trial. (Mot. at 17-18.) It is not clear from the
5 papers whether this 40% "standard" arrangement was entered into between the
6 parties. (This arrangement may be confidential, but that, too, is unclear from the
7 papers.) Accordingly, it is difficult to determine what amount is theoretically even
8 needed to "make Plaintiff whole."

9 In any event, the cases and statutes cited by Plaintiff for the proposition that a
10 plaintiff must be made whole to effectuate the purposes of FEHA appear inapposite,
11 as they deal with an award of **actual damages**, not attorney's fees. See Cloud v.
12 Casey, 76 Cal. App. 4th 895, 909 (Ct. App. 1999) (finding plaintiff in FEHA action was
13 entitled to prove the full extent of her **damages** necessary to make her 'whole,'
14 including both back pay and front pay); Cal. Gov. Code § 12970(a) (describing
15 availability of **actual damages** for FEHA violation); Commodore Home Sys., Inc. v.
16 Superior Court, 32 Cal. 3d 211, 213 (1982) (punitive **damages** available in FEHA civil
17 action); Ofsevit v. Trustees of Cal. State Univ., 21 Cal. 3d 763, 769 n.14 (*not a FEHA*
18 *case*; only discusses that award of back pay to make plaintiff whole under California
19 Education Code is permissible); Cal. Code of Reg. § 7286.9 (outlining broad authority
20 of Fair Employment and Housing Commission – not courts – to fashion remedies for
21 FEHA violation, including back pay and injunctive relief); League of United Latin Am.
22 Citizens v. City of Salinas Fire Dept., 654 F.2d 557, 559 (9th Cir. 1981) (*not a FEHA*
23 *case*; instead, a Title VII case affirming district court's grant of retroactive promotion
24 and backpay to plaintiff).

25 (5). Novelty or Difficulty of Issues Presented

26 While Plaintiff does not discuss this factor, Defendant correctly points out that
27 this case lacked any novel or difficult issues which would weigh in favor of a multiplier.
28 See Opp. at 8-9; Dillingham, 101 Cal. App. 4th at 426-27; Flannery, 61 Cal. App. 4th

1 at 646; Serrano III, 20 Cal. 3d at 48-49. Indeed, this action was a relatively
2 straightforward employment case involving one plaintiff, one defendant, and relatively
3 limited facts and law. Accordingly, again as noted above, the lack of novelty or
4 difficult issues presented in this case weigh against awarding a substantial multiplier.

5 (6). Computation

6 Focusing principally on the contingent risk element, the Court concludes that a
7 1.2 multiplier, which carries an implicit interest rate of 20%, would compensate
8 counsel for the risk undertaken in accepting this case. Although a 20% interest rate
9 might be considered high, the Court notes that counsel have been engaged in this
10 lawsuit over an extended period of time and that the implicit interest rate on an
11 attorney's "loan" of legal services is necessarily high because the "risk of default (the
12 loss of the case, which cancels the debt of the client to the lawyer) is much higher
13 than that of conventional loans." Ketchum, 24 Cal. 4th at 1132-33.

14 Plaintiff also asserts that because counsel was precluded from taking other
15 cases while handling this one, counsel should be awarded a multiplier. (Mot. at 16.)
16 This "opportunity cost" argument is not entirely persuasive because counsel has not
17 established that it gave up representations where the party would have paid an hourly
18 rate, or where the contingent risk was equivalent or lower to the risk assumed in this
19 case. Without such a showing, the opportunity cost is a "wash."

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III.

CONCLUSION

For the foregoing reasons, the Court **GRANTS** Plaintiff's motion and awards Plaintiff attorney's fees, in the amount of \$319,050, which constitutes the lodestar figure of \$265,875 times a multiplier of 1.2.

IT IS SO ORDERED.

DATED: December 4, 2007



Judge Gary Allen Fees
United States District Court

EXHIBIT "D"

LAW & MOTION
DEPT. 47
DECEMBER 7, 2007
NO.

BC 342 104
TROY HERNANDEZ ET AL
VS.
CITY OF SOUTH GATE

**PLAINTIFFS MOTION
FOR ATTORNEYS FEES**

The motion is granted. The court accepts the time counsel claimed they spent on the case and also accepts the hourly rate of each of plaintiffs attorneys. Thus the court accepts the lodestar figure of \$2,670,558.00. The case was zealously tried by both sides each of whom gave as much as they got. The court will not go into the question of whether each any every motion was necessary or whose fault it was that required certain actions to be taken. The next question is whether there should be a multiplier in this case, or whether the court should decrease the lodestar amount. Because of the contingency aspect of the case there is a certain risk that counsel takes in accepting cases of this type. However, the hourly fees they receive are in themselves substantial. Thus, it is the court's opinion that only a slight multiplier is justified in this case. The court will set a multiplier of 1.2 which results in a net award of attorneys fees in the amount of \$3,204,669.60.

PROOF OF SERVICE

STATE OF CALIFORNIA)

COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years of age, and am not a party to the within action; my business address is 9100 Wilshire Boulevard, Suite 345E, Beverly Hills, California 90212.

On the date hereinbelow specified, I served the foregoing document, described as set forth below on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes, at Beverly Hills, addressed as follows:

DATE OF SERVICE : June 11, 2012

DOCUMENT SERVED : **DECLARATION OF CHRISTOPHER BRIZZOLARA
IN SUPPORT OF MOTION FOR ATTORNEYS FEES**

PARTIES SERVED : **SEE ATTACHED SERVICE LIST.**

XXX (BY REGULAR MAIL) I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States mail at Beverly Hills, California. I am "readily familiar" with firm's practice of collection and processing correspondence for mailing. It is deposited with U.S. postal service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

XXX (BY ELECTRONIC MAIL) I caused such document to be electronically mailed to **Christopher Brizzolara, Esq.** at the following e-mail address: samorai@adelphia.net.

XXX (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

— (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

EXECUTED at Beverly Hills, California on June 11, 2012.

Selma I. Francia

SERVICE LIST

WILLIAM TAYLOR v. CITY OF BURBANK
LOS ANGELES COUNTY SUPERIOR COURT CASE NO. BC 422 252

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